TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1939

No. 567

HARRY M. VEIX, APPELLANT,

vs.

SIXTH WARD BUILDING AND LOAN ASSOCIATION OF NEWARK, NEW JERSEY

APPEAL FROM THE SUPREME COURT OF THE STATE OF NEW JERSEY

FILED DECEMBER 4, 1939.

SUPREME COURT OF THE UNITED STATES

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vs.

SIXTH WARD BUILDING AND LOAN ASSOCIATION OF NEWARK, NEW JERSEY

APPEAL FROM THE SUPREME COURT OF THE STATE OF NEW JERSEY

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[fol. a] [Caption omitted]

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IN SUPREME COURT OF NEW JERSEY, ESSEX COUNTY

COMPLAINT—Filed April 8, 1939

Plaintiff, residing in the City of Newark, County of Essex and State of New Jersey, says that:

First Count

1. On October 1, 1928 plaintiff purchased Twenty-five (25) Prepaid Shares of the Sixth Ward Building and Loan Association of the City of Newark, N. J. of a par value of Two hundred dollars ($200.00) each for which the plaintiff paid the defendant the sum of Five thousand dollars ($5,000.00).

2. By the terms thereof the defendant agreed to pay the plaintiff Six (6) per cent per annum interest on the face value of said shares.

3. At the time said shares were purchased as aforesaid "An Act concerning Building and Loan Associations, Revision of 1925" being Pamph. L. 1925 C 65, was then in force which provided among other things as follows:

Section 49 provides as follows:

"49. How Withdrawn.

The shares of every such association of this State, or doing business therein, may be withdrawn by the holder at any time, by giving such written notice as may be provided for in the constitution or by-laws, not to exceed thirty days; if withdrawal be made within the first year, the withdrawal value of the shares withdrawn shall be not less than the sum of the subscription or dues paid on such shares, less a proportionate share of any loss sustained by such association; after the first year a reasonable share of the profits less unpaid fines shall be included in the withdrawal value; in [fol. 4] case such shares are pledged as collateral security for the repayment of a loan made thereon by such association, the amount of such loan shall be deducted from such

withdrawal value and the difference only paid to such member; amounts paid for salaries, commissions and other current expenses shall not be considered losses within the meaning of this section."

Section 52 of the Act provides as follows:

"52. Payment of withdrawals.

Withdrawals from any such association shall be paid in the order in which the notices thereof shall have been received, but not more than one-half of the receipts of any one month shall be required to be used for the payment of withdrawal claims, without the consent of the board of directors, until the oldest of such claims then unpaid shall have been on file for a period of six months; but in no case shall payment be postponed for a period longer than six months from the date of such notice, and any member who has given the said notice may sue for and recover the withdrawal value of his shares in any such association in any court of competent jurisdiction, if the same is not paid in six months from the date of the giving of said notice of withdrawal."

4. At the time said shares were purchased the Constitution of the defendant provided for withdrawal of prepaid certificates as follows:

"Article XIX. Prepaid Shares.

'Section 2.—Prepaid shares shall bear interest payable semi-annually on the First day of May and November of each year, at such rate as the Board of Directors may determine at date of issue and may be withdrawn by the holder thereof, upon giving Thirty days written notice prior to any [fol. 5] regular meeting of the Association."

5. On August 17, 1932 the plaintiff gave the defendant written notice of withdrawal of said shares.

6. Thirty days thereafter plaintiff demanded of defendant payment of the withdrawal value of his said stock and interest due thereon.

7. Six months thereafter and on many other occasions said plaintiff demanded of defendant payment of the withdrawal value of his stock and interest due thereon.

8. At the time of such demands defendant had sufficient funds in cash on hand to pay the same and now has sufficient funds in cash to pay the same.

9. At the time of such demands the defendant was and still is solvent.

10. Subsequent to August 17, 1932, the date of plaintiff's withdrawal notice payments had been made by defendant upon other withdrawal applications.

11. The defendant claims to be operating under New Jersey revised statutes 17: 12-49 also 17: 12-50 Source L 1925, C 65, Sec. 49 p. 211 as amended by L. 1932. C 92 Section 1, p. 161, L 1935, C 59 Section 10 p. 152. 17: 12-53 Source L 1925. C. 65 Section 52 p. 212, as amended by L 1932, C 102 Section 1 p. 175, L 1935 C 59 Section 11, p. 153, L. 1936, C. 118 Section 4 p. 295, but all of these statutes in so far as they might effect the plaintiff's right herein are unconstitutional and within the inhibitions of Article 3 Sec. 7 paragraph 3 of the Constitution of the State of New Jersey and of Article 1 Section 10, of the Constitution of the United States of America, and of Section 1 of the Fourteenth Amendment of the Constitution of the United States of America and therefore are void insofar as the plaintiff's rights are concerned.

12. There are no legal assessments, deductions or re- [fol. 6] serves which can or should be withheld from the plaintiff and any attempt on the part of the defendant to withhold any part of the plaintiff's money under alleged color thereof or under alleged color of any order of the Commissioner of Banking and Insurance of the State of New Jersey is done in violation of Articles 3, Section 7, Paragraph 3 of the Constitution of the State of New Jersey and Article 1, Section 10 of the Constitution of the United States of America and Section 1 of the Fourteenth Amendment of the Constitution of the United States of America and is therefore void insofar as it may effect the right of the plaintiff herein.

13. There is due and owing from the defendant on said shares the sum of Five thousand dollars, together with interest from October 5, 1932 which sum has been demanded from the defendant, but payment has been refused.

Judgment will be claimed for Five thousand dollars ($5,000.00) with interest at six per cent per annum from October 5, 1932 and costs of suit on the first count.

Second Count

1. On October 2, 1929 plaintiff purchased Seventeen and one half (17½) Prepaid shares of The Sixth Ward Building and Loan Association of the City of Newark, N. J. of a par value of Two hundred dollars ($200.00) each, for which the plaintiff paid the defendant the sum of Three thousand five hundred dollars ($3,500.00).

2. Plaintiff repeats the allegations contained in paragraph 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the First Count and make them a part of this Count.

13. There is due and owing from the defendant the sum of Three thousand, five hundred dollars ($3,500.00) together with interest from October 5, 1932 which sum has been [fol. 7] demanded from the defendant but payment has been refused.

Judgment will be claimed for the sum of Three thousand and five hundred dollars ($3,500.00) with interest at six per centum per annum from October 5, 1932 and costs of suit on the second count.

Walter P. Reilly, Attorney of Plaintiff, 790 Broad St., Newark, N. J.

In Supreme Court of New Jersey

Answer—Filed April 24, 1939

The Defendant Sixth Ward Building and Loan Association of Newark, New Jersey, a corporation, reserving all manner of objection to the Complaint herein and the right to move to strike out said Complaint at or before trial on the ground that the same does not set forth a cause of action in either of any of the counts therein set forth, for answer thereto says:

First Count

1. It admits the allegations in Paragraph 1.

2. It denies the allegations in Paragraph 2.

[fol. 8] 3. It neither admits nor denies the allegations contained in Paragraph 3 and conceives and alleges that they are argumentative and improperly alleged.

4. It admits that its constitution contained the provision "Article XIX Prepaid Shares" as set forth in Paragraph 4.

5. It admits the allegations in Paragraph 5.

6. It has no information nor knowledge of the truth of the allegations contained in Paragraph 6 and therefore neither admits nor denies the same.

7. It has no information nor knowledge of the truth of the allegations contained in Paragraph 7 and therefore neither admits nor denies the same.

8. It denies the allegations contained in Paragraph 8.

9. It admits the allegations contained in Paragraph 9.

10. It admits the allegations contained in Paragraph 10.

11. It does not answer the allegations contained in Paragraph 11 as it conceives and alleges that they are argumentative in form and improper subject matter of complaint.

12. It does not answer the allegations contained in paragraph 12 as it conceives and alleges that they are argumentative in form and improper subject matter of complaint.

13. It denies the allegations contained in Paragraph 13.

Second Count

1. It admits the allegations contained in Paragraph 1 of the Second Count.

2. It repeats the allegations contained in the Answer to Paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the First Count and makes them a part hereof.

[fol. 9] 13. It denies the allegations contained in Paragraph 13 of the Second Count.

First Separate Defense

The plaintiff is barred from bringing the said suit against the defendant by the provisions of Revised Statutes of New Jersey, 1937—17: 12-53 as follows:

"No member to whom any such association shall be obligated for the payment of any maturity or withdrawal shall

have the right to bring suit against such association to recover the maturity or withdrawal value of his shares or any part thereof so long as the funds of such association shall be applied as required by this section; * * *"

Mulligan & Koenig, Attorneys for Defendant.

IN SUPREME COURT OF NEW JERSEY

NOTICE OF MOTION TO STRIKE ANSWER, ETC.—Filed April 29, 1939

To Mulligan & Koenig, Attorneys for Defendant, or to whom it may concern.

SIR:

Please Take Notice that I shall apply to his Honor Edwin C. Caffrey, Judge of Essex County Circuit Court, at the Court House, in Newark, on the 28th day of April, A. D. 1939, at 9.30 o'clock in the forenoon, or as soon thereafter as counsel can be heard, for an Order to strike out the answer filed by you and for summary judgment in favor of plaintiff on both counts, in the above entitled cause, on the ground that the allegations in paragraphs Two, Three, Six, Seven, Eight, Eleven, Twelve and Thirteen of the First Count and the said paragraphs as repeated in the Second Count are untrue in fact and sham and that the allegation contained in the first separate defense is frivolous.

[fol. 10] And take further notice that in the event that the above Motion should be denied, then I shall forthwith move that the above cause be placed on the May 1939 Commercial Calendar at the Essex Circuit.

I shall support my application by the affidavit of the plaintiff hereto attached.

Walter P. Reilly, Attorney of Plaintiff.

AFFIDAVIT OF HARRY M. VEIX

STATE OF NEW JERSEY,
County of Essex, ss:

Harry M. Veix, being duly sworn upon his oath according to law, deposes and says that:

1. He is the plaintiff in this action and is the owner of the Forty-two and one-half Prepaid Shares of the Sixth Ward Building and Loan Association of the City of Newark, New Jersey, purchased October 1, 1928 and October 2, 1929, each having a par value of Two Hundred Dollars ($200.00) each, for which deponent paid the Sixth Ward Building and Loan Association of the City of Newark, New Jersey the total sum of Eight thousand five hundred dollars ($8,500.00).

2. Deponent further states that the Sixth Ward Building and Loan Association agreed to pay deponent six per cent per annum on the face value of said shares in accordance with the terms of the prepaid Certificates issued to deponent.

3. On or about August 17, 1932 the deponent gave the [fol. 11] Sixth Ward Building and Loan Association a written notice of withdrawal of his said shares and thirty days thereafter plaintiff demanded payment and also six months thereafter demanded payment of his shares and the interest due thereon, no part of which was paid to deponent.

4. Deponent further states that there is due and owing to him the sum of Eight thousand Five hundred dollars ($8,500.00) and interest at the rate of six per cent per annum from October 5, 1932.

5. Deponent has read the answer filed by the defendant herein and believes that the allegations in paragraphs Two, Three, Six, Seven, Eight, Eleven, Twelve and Thirteen of the First Count and the said paragraphs as repeated in the Second Count are untrue in fact and sham and that the allegations contained in the first separate defense is frivolous and that the answer is filed solely for the purpose of delay.

Harry M. Veix.

Subscribed and sworn to before me this 25th day of April 1939, Joseph Schoenholz, A Master in Chancery of New Jersey.

Service of the within Notice of Motion is hereby acknowledged this 25th day of April A. D. 1939, as of time.

Mulligan & Koenig, Attorneys for Defendant.

IN SUPREME COURT OF NEW JERSEY

NOTICE OF MOTION TO STRIKE OUT COMPLAINT—Filed Nov. 21, 1939

To Walter P. Reilly, Attorney of Plaintiff, #790 Broad [fol. 12] Street, Newark, New Jersey.

DEAR SIR:

Please Take Notice that we shall apply to the Honorable Edwin C. Caffrey, sitting under the statute as Supreme Court Commissioner at the Court House in the City of Newark, on Friday the Twenty-Eighth day of April, Nineteen Hundred and Thirty-Nine at the hour of ten o'clock in the forenoon or as soon thereafter as counsel can be heard, for an Order striking out the complaint of the plaintiff Harry M. Veix in the above entitled cause upon the following grounds:

1. The complaint does not set up facts sufficient to constitute a cause of action against the defendant herein.

2. That it appears affirmatively on the face of the complaint that the plaintiff has no legal claim against the defendant.

3. On the ground that the plaintiff has not complied with the provisions of the Revised Statutes of New Jersey, 1937—17: 12-53-e to entitle him to have a claim against the defendant.

4. On the ground that because of the reasons set forth in number 3, this Court has no jurisdiction to entertain such a claim.

Mulligan & Koenig, Attorneys of Defendant.

[fol. 13] IN SUPREME COURT OF NEW JERSEY

AFFIDAVIT ON MOTION TO STRIKE OUT COMPLAINT AND TO STRIKE OUT ANSWER—Filed May 3, 1939

STATE OF NEW JERSEY,
County of Essex, ss:

William Mattes, Jr., of full age being duly sworn according to law on his oath deposes and says:

He is and has been since March 8, 1935 Secretary of the above named defendant Association.

The plaintiff paid to the defendant Association the sum of Eighty Five Hundred Dollars as set forth in his complaint and received therefor certificates of stock of the defendant Association in the form annexed hereto. Said certificates provided as follows:

"These shares may be surrendered at any time subject to the provisions of the constitution and any amendments thereto which may hereafter be adopted."

The constitution in force at that time provided as follows:

"Article XVIII.—This constitution shall not be altered or amended except at an annual or special meeting of which due notice shall have been given and by vote of two-thirds of the stockholders present."

On May 12, 1937, the said Constitution was revised and the revision adopted at a duly convened meeting held and conducted in accordance with the previous constitution. Said revised constitution provided as follows:

"Article IX—Sec. 2. The provisions of the General Building and Loan Act as it now exists and all supplements [fol. 14] thereto and amendments and revisions thereof now existing or in the future adopted are expressly made a part of this constitution and shall be binding upon all present and future members of the association and no member rights whatsoever shall be deemed to vest except subject to such conditions."

At the time the notice of withdrawal was given by the plaintiff to the defendant Association, August 17, 1932, P. L. 1932 C. 102 (N. J. S. T. Annual 1932, Section 27-R (52)) was in force and pursuant thereto the defendant Association could not then or thereafter legally pay to the plaintiff the demand made for the shares withdrawn as the funds on hand in the defendant Association were insufficient for the purpose.

P. L. 1933 C C 48—166 and 258 (N. J. S. T. Annual 1933, Section 27-R (86) et. seq.) became effective March 10, 1933, May 11, 1933, and June 21, 1933, respectively, and by virtue of these acts the Commissioner of Banking and Insurance of this State was given power to make orders for the purpose

of conserving the assets of the building and Loan Associations of this State and pursuant thereto the said Commissioner issued orders to the defendant Association which forbade the payment of the demand made by the plaintiff for the surrender value of his shares.

Deponent further says that the said defendant Association is being conducted in all respects according to the laws of this State and the rules and orders of the Commissioner of Banking and Insurance of this State and payments to shareholders are only being made in accordance with the provisions of said laws and orders.

William Mattes, Jr.

Subscribed and sworn to before me this 27th day of April, A. D. 1939. Kathryn E. Huber, A Notary Public of New Jersey.

[fols. 15-16] Note: 2 Photostats of Certificates of Prepaid Shares Nos. 273 & 320 follow the above pleading and are attached hereto.

[fol. 17] In Supreme Court of New Jersey

Order Striking Out Complaint—Filed May 2, 1939

Plaintiff having moved to strike out the Answer filed in the above matter and Defendant, having moved to strike out the complaint in the above matter, on the ground that it disclosed no cause of action, and arguments for plaintiff and defendant, by their respective counsel, having been duly heard:

It is on this 28th day of April, 1939, on motion of Mulligan & Koenig, attorneys for defendant, ordered that the said complaint be stricken out on the ground that it disclosed no cause of action.

Edwin C. Caffrey, Circuit Court Judge, Supreme Court Commissioner.

In Supreme Court of New Jersey

Rule for Judgment—Filed May 2, 1939

The complaint in above stated cause having been stricken out by the Court without leave to the plaintiff to file an amended complaint;

It is Ordered that judgment be and hereby is entered in favor of defendant and against the plaintiff with costs to the defendant to be taxed.

Entered May 2nd, 1939.

On Motion of Mulligan & Koenig, Attorneys.

[fol. 18] IN SUPREME COURT OF NEW JERSEY

JUDGMENT—Filed May 2, 1939

Plaintiff's motion to strike out the answer of the defendant and the defendant's motion to strike out the complaint of the plaintiff on the ground that it discloses no cause of action having come on to be heard before Edwin C. Caffrey, Circuit Court Judge, sitting as Supreme Court Commissioner, and arguments for plaintiff and for defendant by their respective counsel having been duly heard, and the court having ordered that the complaint of the plaintiff be stricken out on the ground that it discloses no cause of action.

Whereupon it is adjudged that the complaint of the plaintiff be dismissed and that the defendant Sixth Ward Building and Loan Association of Newark, New Jersey, a corporation do recover of the said plaintiff Harry M. Veix, its costs which have been taxed at the Costs $38.00 sum of Thirty-eight dollars.

Judgment entered and signed May 2, 1939.

Thomas J. Brogan, Chief Justice.

[fol. 19] IN SUPREME COURT OF NEW JERSEY

NOTICE OF APPEAL AND GROUNDS—Filed May 5, 1939

To: Mulligan and Koenig, Esqs., Attorneys of defendant, or to whom it may concern:

SIRS:

Please Take Notice that the plaintiff in the above entitled cause appeals to the Court of Errors and Appeals in the Last resort in all causes in New Jersey, from the whole of

the judgment entered in this cause, on the following grounds, to wit:

1. Because the Supreme Court erred in striking the complaint and entering judgment in favor of the defendant in that:

A. The Revised Statutes of New Jersey 17: 12-49, also 17: 12-50 and 17: 12-53, also L. 1933 C. 48, and the amendments and supplements thereto are unconstitutional and within the inhibitions of Article 4, Sec. 7, paragraph 3 of the Constitution of the State of New Jersey and Article 1, Section 10 of the Constitution of the United States of America, and Section 1 of the Fourteenth Amendment of the Constitution of the United States of America and therefore void insofar as the plaintiff's rights are concerned.

8. Because the Supreme Court erred in failing and refusing to strike the Answer.

C. Because the Supreme Court erred in failing and refusing to enter a summary judgment in favor of the plaintiff.

Walter P. Reilly, Attorney of Plaintiff.

Service of a copy of the within Notice of Appeal and Grounds is hereby acknowledged this 3rd day of May, A. D. 1939.

Mulligan & Koenig, Attorneys for Defendant.

[fol. 20] In Court of Errors and Appeals of New Jersey, May Term, 1939

No. 73

Harry M. Veix, Plaintiff-Appellant,

vs.

Sixth Ward Building and Loan Association of Newark, New Jersey, a Corporation, Defendant-Respondent

Submitted May Term, 1939; Decided Sep. 22, 1939

On Appeal from the Supreme Court.

For the plaintiff-appellant, Walter P. Reilly. James L. Handford, of Counsel.

For the defendant-respondent, Mulligan & Koenig.

OPINION—Filed September 22, 1939

Per CURIAM:

The complaint in the instant case was struck out on defendant's motion and from the judgment entered thereon the plaintiff appeals.

In this suit at law the plaintiff sought to recover the face value and interest of twenty-five prepaid shares of the defendant building and loan association stock purchased on Oct. 1, 1928, and also the face value and interest of an additional seventeen and one-half shares of like stock purchased a year later.

Plaintiff's case is rested on the provisions of the statute which was controlling at the time of the purchase—Chapter 65, P. L. 1925; R. S. 17: 12-2, et seq. At that time the 1925 statute, supra, provided, inter alia, that the owner of such stock might have same redeemed for cash by giving a thirty day notice in writing and that such withdrawal should be paid by the association in the order in which notice had been received. On August 17, 1932, the plaintiff gave the defendant such written notice of withdrawal and, after the lapse of thirty days, demanded payment. But prior thereto the Legislature had amended the 1925 statute by [fol. 21] Chapter 102, P. L. 1932; R. S. 17: 12-53.

The plaintiff-appellant says that the 1932 statute is invalid and the burden of the argument is that that statute is unconstitutional because it impairs the obligation of the contract, but we have already held to the contrary in the case of Bucsi vs. Longworth B. & L. Assn., 119 N. J. L. 120, and Rocker vs. Cardinal B. & L. Assn., 119 Id. 134, and this appeal is entirely controlled by our holding in those cases.

The judgment under review will be affirmed.

[File endorsement omitted.]

IN COURT OF ERRORS AND APPEALS

OF NEW JERSEY

May Term, 1939

Appeal from Supreme *Court*

~~[illegible]~~ ~~Court~~

Harry M. Veix,

Appellant,

and

Sixth Ward B. & L. Assn. of Newark, N. J. Respondents,

No. 73 *of* May *Term, 1939*

Date Sep 22, *1939*

The Chancellor *presiding.*

Opinion ~~by~~ Per Curiam

CHECK LIST	Affirm	Reverse	Modify
The Chancellor	X		
" Chief Justice	X		
Mr. Justice ~~[illegible]~~			
" " Parker	X		
" " Case	X		
" " Bodine	X		
" " Donges	X		
" " Heher	X		
" " Perskie	X		
" " Porter	X		
Judge Hetfield	X		
" Dear	X		
" Wells	X		
" WolfsKeil	X		
" Rafferty	X		
" Hague	X		
-22- Totals			

[fol. 23] In Court of Errors and Appeals of New Jersey, May Term, 1939

Between

Harry M. Veix, Plaintiff-Appellant,

vs.

Sixth Ward Building and Loan Association of Newark, New Jersey, a Corporation, Defendant-Respondent

On Appeal from Supreme Court

Judgment—September 22, 1939

This cause having been duly argued at the May Term, 1939 of this court by Walter P. Reilly and James L. Handford of counsel for the appellant and Mulligan & Koenig, by George D. Mulligan of counsel for the respondent, and the court having considered the same, and finding no error in the record or proceedings in the Supreme Court—

It is thereupon, on this Twenty-second day of September in the year of our Lord one thousand nine hundred and Thirty-nine, ordered and adjudged that the judgment of the Supreme Court, removed by the appeal in this cause, be affirmed with costs; and that the record be remitted to the Supreme Court to be proceeded with in accordance with this judgment and the practice of said court.

On motion of

Mulligan & Koenig, Attorneys for Respondent.

A True Copy. Thomas A. Mathis, Clerk.

[fol. 24] Supreme Court of the United States

[Title omitted]

Petition for Appeal, Assignment of Errors and Prayer for Reversal—Filed November 3, 1939

Petition for Appeal

Considering himself aggrieved by the final decision of the Court of Errors and Appeals In the Last Resort In All

Causes in the State of New Jersey in the above entitled cause, the highest court of said State in which a decision in the above entitled cause should be had, the appellant therein, Harry M. Veix, of the City of Newark, New Jersey, hereby prays that an appeal be allowed to the Supreme Court of the United States herein and for an Order fixing the amount of the bond thereon.

ASSIGNMENT OF ERRORS

Now comes the appellant above named and files herewith his petition for appeal and says that there are errors in the records and proceedings of the above entitled cause and for the purpose of having the same reviewed in the Supreme Court of the United States makes the following assignment:

1. The New Jersey Court of Errors and Appeals erred in failing to hold that 1937 Revised Statutes of New Jersey 17:12-53—source New Jersey Pamphlet Laws of 1925 Chapter 65 Section 52 page 212; New Jersey Pamphlet Laws of 1932 Chapter 102 Section 1, page 175; approved April 22, 1932, New Jersey Pamphlet Laws of 1935 Chapter 59 Section 11 page 153 and New Jersey Pamphlet Laws of 1936 [fol. 25] Chapter 118 section 4, page 295 impaired the obligation of an existing contract between the appellant and the appellees in violation of Article 1, Section 10 of the Constitution of the United States.

2. The New Jersey Court of Errors and Appeals erred in failing to hold that said 1937 Revised Statutes of New Jersey 17:12-53 source New Jersey Pamphlet Laws of 1925 Chapter 65 Section 52 page 212; New Jersey Pamphlet Laws of 1932 Chapter 102 Section 1, page 175; approved April 22, 1932, New Jersey Pamphlet Laws of 1935 Chapter 59 Section 11 page 153 and New Jersey Pamphlet Laws of 1936 Chapter 118 Section 4, page 295 deprived the appellant of his property without due process of law in violation of Section 1 of the 14th Amendment to the Constitution of the United States.

3. The New Jersey Court of Errors and Appeals erred in failing to hold that said 1937 Revised Statutes 17:12-53 —source New Jersey Pamphlet Laws of 1925 Chapter 65 Section 52 page 212; New Jersey Pamphlet Laws of 1932 Chapter 102 Section 1, page 175; approved April 22, 1932, New Jersey Pamphlet Laws of 1935 Chapter 59 Section 11

page 153 and New Jersey Pamphlet Laws of 1936 Chapter 118 Section 4, page 295 denied to the appellant the equal protection of the Laws in violation of Section one of the 14th Amendment to the Constitution of the United States.

4. The New Jersey Court of Errors and Appeals erred in affirming the judgment of the New Jersey Supreme Court because said judgment enforced the provisions of 1937 Revised Statutes of New Jersey 17:12-53—source New Jersey Pamphlet Laws of 1925 Chapter 65 Section 52 page 212; New Jersey Pamphlet Laws of 1932 Chapter 102 Section 1, [fol. 26] page 175; approved April 22, 1932, New Jersey Pamphlet Laws of 1935 Chapter 59 Section 11 page 153 and New Jersey Pamphlet Laws of 1936 Chapter 118 Section 4, page 295 which said statute was unconstitutional as it impaired the obligation of appellant's contract with the appellees in violation of Article 1, Section 10 of the Constitution of the United States.

5. The New Jersey Court of Errors and Appeals erred in affirming the judgment of the New Jersey Supreme Court because said judgment enforced the provisions of 1937 Revised Statutes of New Jersey 17: 12-53—source New Jersey Pamphlet Laws of 1925 Chapter 65 Sections 52 page 212; New Jersey Pamphlet Laws of 1932 Chapter 102 Section 1, page 175; approved April 22, 1932, New Jersey Pamphlet Laws of 1935 Chapter 59 Section 11 page 153 and New Jersey Pamphlet Laws of 1936 Chapter 118 Section 4, page 295 which said statute was unconstitutional as it deprived the appellant of property without due process of law in violation of Section 1 of the 14th Amendment of the Constitution of the United States.

6. The New Jersey Court of Errors and Appeals erred in affirming the judgment of the New Jersey Supreme Court because said judgment enforced the provisions of 1937 Revised Statutes of New Jersey 17: 12-53—source New Jersey Pamphlet Laws of 1925 Chapter 65 Section 52 page 212; New Jersey Pamphlet Laws of 1932 Chapter 102 Section 1, page 175, approved April 22, 1932, New Jersey Pamphlet Laws of 1935 Chapter 59 Section 11 page 153 and New Jersey Pamphlet Laws of 1936 Chapter 118 Section 4, page 295 which said statute was unconstitutional as it denied the appellant the equal protection of the Laws in violation of Section 1 of the 14th Amendment to the Constitution of the [fol. 27] United States.

7. The New Jersey Court of Errors and Appeals erred in not holding that 1937 Revised Statutes of New Jersey 17 : 12-53—source New Jersey Pamphlet Laws of 1925 Chapter 65 Section 52 page 212; New Jersey Pamphlet Laws of 1932 Chapter 102 Section 1, page 175; approved April 22, 1932, New Jersey Pamphlet Laws of 1935 Chapter 59 Section 11 page 153 and New Jersey Pamphlet Laws of 1936 Chapter 118, Section 4, page 295 to be an unreasonable invasion of the rights of property and an unreasonable impairment of the contract obligation under the guise of police powers, and therefore unconstitutional.

PRAYER FOR REVERSAL

For which errors the appellant Harry M. Veix prays that the said judgment of the New Jersey Court of Errors and Appeals, which was entered on September 22, 1939 in the above entitled cause be reviewed by the Supreme Court of the United States and reversed and a judgment entered in favor of the appellant and for costs.

Walter P. Reilly, Attorney for Appellant.

Walter P. Reilly, Of Counsel with Appellant, James L. Handford, Of Counsel with Appellant.

Endorsed on this petition is the following: The within petition is denied, solely on the ground of lack of jurisdiction.

Luther A. Campbell, C. & P. J. Errors and Appeals Court of N. J.

[fols. 28-56] SUPREME COURT OF THE UNITED STATES

[Title omitted]

ORDER ALLOWING APPEAL—Filed November 3, 1939

The appellant in the above entitled cause, having prayed for the allowance of an appeal in said cause to the Supreme Court of the United States from the judgment entered in the New Jersey Court of Errors and Appeals In The Last Resort In All Causes on the Twenty-second day of September, 1939 and from each and every part thereof, and having presented and filed his petition for appeal, assignment of

errors, prayer for reversal and statement, pursuant to the statutes and to the rules of the Supreme Court of the United States in such case made and provided;

It is Ordered that an appeal be and the same is hereby allowed to the Supreme Court of the United States from the New Jersey Court of Errors and Appeals In The Last Resort In All Causes, in the above entitled cause, as provided by law, and it is further Ordered that the Clerk of the New Jersey Supreme Court, to which Court the record in said cause has been remitted, shall prepare and certify a transcript of the record, proceedings and judgment in said cause and transmit the same to the Supreme Court of the United States, so that he shall have the same in said Court within 40 days of this date.

And it is further Ordered that security for Costs on appeal be fixed in the sum of $100.

Dated this 1st day of November 1939.

Owen J. Roberts, Associate Justice of the Supreme Court of the United States.

[fols. 57-60] Bond on Appeal for $100.00 approved and filed Nov. 15, 1939, omitted in printing.

[fols. 61-90] SUPREME COURT OF THE UNITED STATES

[Title omitted]

AFFIDAVIT OF SERVICE—Filed November 3, 1939

STATE OF NEW JERSEY,
County of Essex, ss:

Walter P. Reilly of full age being duly sworn according to law on his oath deposes and says I am the attorney for the appellant Harry M. Veix, in the above entitled cause; that on November 2, 1939, I served the Citation in the above entitled matter issued on November 1, 1939, upon Mulligan and Koenig, attorney for the appellee by exhibiting the same personally to George D. Mulligan, a member of said law firm and explaining to him the contents thereof and leaving with him a true copy of same.

Walter P. Reilly.

Subscribed and sworn to before me this 3rd day of November, A. D. 1939. Herbert H. Meyer, An Attorney at Law of New Jersey.

[fol. 91] SUPREME COURT OF THE UNITED STATES

[Title omitted]

STIPULATION AS TO TRANSCRIPT OF RECORD—Filed November 17, 1939

It is hereby stipulated and agreed by and between Walter P. Reilly, attorney for the appellant, and George D. Mulligan; attorney for the appellee, that the Clerk of the New Jersey Supreme Court shall prepare his transcript of the record to include the following, but without the caption:

Summons.

Complaint.

Demand for Affidavit of Merits.

Answer.

Notice of Motion.

Affidavit of Harry M. Veix.

Notice of Motion to Strike Complaint.

Affidavit on motion to Strike Complaint and to Strike Answer.

Photostat copy of Certificate No. 273 for 25 shares of Prepaid stock of appellee's association.

Photostat copy of Certificate No. 320 for 17½ shares of prepaid stock of appellee's association.

Order Striking Complaint.

Rule for Judgment in New Jersey Supreme Court and Judgment.

Notice of Appeal and Grounds to New Jersey Court of [fols. 92-93] Errors and Appeals.

Opinion in New Jersey Court of Errors and Appeals and Check List of Justices in Court of Errors and Appeals.

Remittitur from New Jersey Court of Errors and Appeals to New Jersey Supreme Court.

Petition of Appeal to the Supreme Court of the United States and all papers in connection with the Appeal, Statement of matter of ground making against that Jurisdiction of this Court asserted by the Appellant and Motion by Appellee to Dismiss, including this Stipulation.

Walter P. Reilly, Attorney for Appellant. George D. Mulligan, Attorney for Appellee.

[fol. 94] Citation in usual form showing service on Mulligan & Koenig filed Nov. 3, 1939 omitted in printing.

[fol. 95] Certificates to record omitted in printing.

[fol. 96] IN SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS TO BE RELIED UPON AND DESIGNATION OF THE PARTS OF THE RECORD TO BE PRINTED—Filed Dec. 4, 1939

Comes now the appellant and adopts his assignments of error as his statement of the points to be relied upon, and represents that the whole of the record, as filed, is necessary for the consideration of the case, excepting the following be omitted:

1. Summons (R. 1).
2. Return of Sheriff (R. 2).
3. Demand for Affidavits of Merits (R. 7).
4. Form of typewritten stock certificate (R. 17).

Walter P. Reilly, Counsel for Appellant. James L. Handford, Of Counsel for Appellant.

Dated December 2, 1939.

[fol. 97] Service of a copy of the within Statement of Points &c. is hereby acknowledged this 2nd day of December, A. D. 1939.

George D. Mulligan, Counsel for Appellee.

[fol. 98] [File endorsement omitted.]

Endorsed on cover: File No. 43,974. New Jersey, Supreme Court. Term No. 567. Harry M. Veix, Appellant, vs. Sixth Ward Building and Loan Association of Newark, New Jersey. Filed December 4, 1939. Term No. 567 O. T. 1939.